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April 5, 2001

VIA HAND DELIVERY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
Portals II, Filing Center, TW-A325
Washington, D. C. 20554

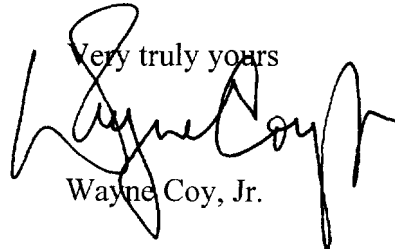
Re: Petition for Reconsideration

Dear Ms. Salas

Transmitted herewith, on behalf of Delta College, licensee of noncommercial educational broadcast stations WDCQ(TV), University Center, Michigan, and WDCP(TV), Bad Axe/Ubly, Michigan, and permittee for DTV facility WDCQ-DT, are the original and five (5) copies of its Petition for Reconsideration in MM Docket No. 00-39.

This Petition was initially submitted on March 15 but the referenced Docket Number on the Petition was incorrect. Please accept this substitute filing.

Should you have any questions with respect to this filing, please contact the undersigned.

Very truly yours

Wayne Coy, Jr.

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE

Federal Communications Commission

In the Matter of)	
Commission's Rules and Policies)	
Affecting the Conversion)	MM Docket No. 00-39
Digital Television)	
)	
To: The Commission)	

PETITION FOR RECONSIDERATION

Comes now Delta College, licensee of noncommercial educational broadcast stations WDCQ(TV), licensed to University Center, Michigan, and WDCP(TV), licensed to Bad Axe/Ubly, Michigan, (collectively "Delta"), by and through its attorney, to Petition the Commission for Reconsideration of its **Report and Order and Further Notice of Proposed Rulemaking**, adopted January 18, 2001, (MM Docket 00-39). For the reasons more fully set forth below, Delta feels that its technical and financial ability to implement a conversion to a digital television service has been seriously impaired by the adoption, in the **Report and Order**, above, of a different standard for measuring the city-grade coverage for replication purposes, AFTER they applied for and were granted a construction permit for a facility under the rules as they existed at the time they applied. Without an exception for Delta and the few stations in the situation that Delta finds itself in, Delta will have to go back to square one in the technical and financial considerations, gravely impeding its ability to implement the service at all.

BACKGROUND

2. After considerable investment in planning, engineering studies, coordination with other potential partners and other related matters, Delta College filed an Application for its digital television facility on February 17, 2000 (BPEDT-20000217ABM). The facility specified therein was designed and located so as to provide substantial replication of both of its analog stations, thus saving Delta considerable money in equipment and projected operating expense. The key to the successful planning for this new facility was the reliance on the 41 dBu standard for coverage of the Bad Axe/Ubly city of license. Based on the 1990 Census, the signal from the new (taller) tower would provide service to a population of 1,249,268 persons while the composite Grade B coverage from the two analog station encompassed a population of 684,896. The area within the composite coverage not also covered by the new DTV signal contains on 3,252 persons. Thus Delta felt it met the dual goals of coverage of the cities of license (with a predicted 41dBu signal over Bad Axe/Ubly) and replication of service to virtually all (99.5+%) previously served persons. Replication percentages at or below this figure are common in the DTV Table. The resulting facility is “maxed out” under the Rules of the Commission and cannot, without substantial and expensive change be made to conform to the new rule.

3. Subsequent to its filing, on March 6, 2000, the FCC adopted the NPRM resulting in the **Order** complained of herein, asking for Comments on a number of issues including a City Grade signal requirement. Delta had no notice that such a requirement was being considered nor that its own research and planning could be negated by an *ex post facto* adoption of such a standard.

4. Then, before the NPRM could be acted on, Delta's application for a construction permit consistent with its February filing was GRANTED (August 14, 2000). At that time Delta had no notice to believe that the permit was not fully valid and ready for implementation.

ARGUMENT

5. Delta, through its station in University Center, has been serving east central Michigan since 1964. The satellite station in Bad Axe/Ubly was added in 1986, bringing first noncommercial service to the "thumb" of Michigan. The recent increases in the cost of electricity has made operation of both stations very expensive. Replacing both transmitters and antennas with digital equivalents, plus maintaining the operating cost levels was inhibiting, if not prohibitive. So it was, that Delta began to explore the concept of covering both areas from a common site as a cost-effective way to implement the digital service. The Corporation for Public Broadcasting, together with approval from the FCC, encouraged Delta to move in this direction. Thus, using the available computer models based on the regulations and requirements that existed at the time of the preparation of the application, Delta moved forward with its unifying project. As the Engineering Statement attached, from the Consulting firm of Cohen, Dippell and Everist, P. C., further sets forth the resulting facility met all existing standards. Now, in the aftermath of the January 18 Order, Delta must scrap its plans and start over if the Commission cannot find a way to accommodate its unique problem.

6. It is not known exactly how many construction permits issued for digital facilities have the unusual issue presented here – trying to replicate the service of two transmitters with a single DTV facility. But even as small as that number might be, an even tinier number of such permit holders will be educators whose financial resources are historically and traditionally

limited. And, maybe no other permit holder in this circumstance that will be serving 99.5+% of the population receiving service from the present two analog transmitters.

7. This is the ideal circumstance for a limited exception to the general rule that would serve the public interest. The general acceptability of the rule is and remains valid, but the rigid application of the rule in this situation, where the ultimate goal – complete replication of service at an acceptable, if not perfect level of signal-- is met, would deny an otherwise perfectly acceptable result.

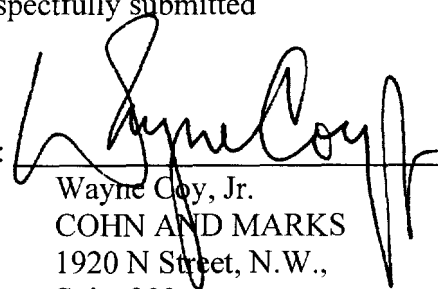
8. Rather than make the few parties that are in this situation go through the hazardous and time-consuming waiver process of seeking a waiver, the Commission should, upon consideration in the **Further Notice**, simply note that the fair and equitable effect of the Rule requires that certain construction permit holders, granted under the circumstances set forth herein, should have their permits “grandfathered” under the new rule.

9. Finally no commercial advantage is sought or gained, and there is no down-side to the public interest benefits of the grant of this limited exception to the rule.

For all of the above reasons, Delta College urges the Commission to reconsider its Ruling to accommodate the limited exception set forth herein.

Respectfully submitted

By:



Wayne Coy, Jr.
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1920 N Street, N.W.,
Suite 300
Washington, DC 20036
(202) 293-3860

Its Attorney

Date: March 15, 2001

ENGINEERING STATEMENT
TO ACCOMPANY
PETITION FOR RECONSIDERATION
MM DOCKET NO. 00-39
ON BEHALF OF
DELTA COLLEGE
LICENSEE OF WDCP(TV), BAD AXE, MICHIGAN

MARCH 2001

COHEN, DIPPELL AND EVERIST, P.C.
CONSULTING ENGINEERS
RADIO AND TELEVISION
WASHINGTON, D.C.

COHEN, DIPPELL AND EVERIST, P. C.

City of Washington)
) ss
District of Columbia)

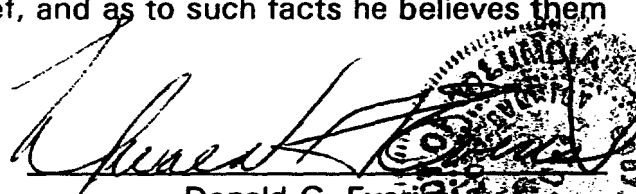
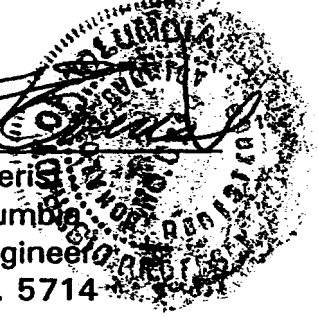
Donald G. Everist, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer, a Registered Professional Engineer in the District of Columbia, and is President of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005;

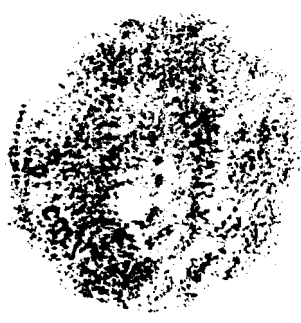
That his qualifications are a matter of record in the Federal Communications Commission;

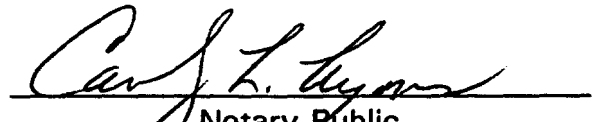
That the attached engineering report was prepared by him or under his supervision and direction and

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.


Donald G. Everist
District of Columbia
Professional Engineer
Registration No. 5714


Subscribed and sworn to before me this 13th day of March, 2001.




Notary Public

My Commission Expires: 2/28/2003

This engineering statement has been prepared on behalf of Delta College, licensee of WDCP(TV), Bad Axe, Michigan. Delta College is authorized to operate television station WDCP(TV) on NTSC Channel 35 with a maximum visual effective radiated power (ERP) of 85.1 kW and antenna height above average terrain (HAAT) of 155 meters. Delta College has been allocated DTV Channel 15 with facilities of 50 kW (maximum) and an HAAT of 155 meters in the revised Table of Allotments.¹

This engineering statement accompanies a Petition for Reconsideration, "In the Matter of the Commission's Rules and Policies Affecting the Conversion to Digital Television", Report and Order and Further Notice of Proposed Rule Making, adopted January 18, 2001.

Delta College filed an engineering statement entitled, "Engineering Statement Re DTV Broadcast Engineering Data on Behalf of Delta College, WDCP-DT, Bad Axe, Michigan, Channel 15, 200 kW ERP, 305 Meters HAAT dated February 2000. The FCC file number is BPEDT-20000217ABM. Delta College received a construction permit for this request dated August 14, 2000.

Delta College after several submissions and consultation with the Federal Aviation Agency ("FAA") chose to locate at or near the existing WNEM-TV site. This affords WDCQ-DT the ability to significantly increase tower height in order to increase DTV coverage, and thereby, render

¹"In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service", MM Docket No. 87-286, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order (FCC 98-24) 2/12/98, DTV Table of Allotments.

educational digital television service to a substantial part of the combined Grade B service areas of WDCP(TV) and WDCQ(TV).²

The Federal Communications Commission (FCC) in the Fifth Report and Order stated that it would conduct a review every two years in order to "ensure that the introduction of digital television and the recovery of spectrum at the end of the transition fully serves the public interest."³ On March 6, 2000, the FCC adopted the first periodic review with a Notice of Proposed Rule Making ("NPRM").⁴ The FCC requested comments on a number of important issues including replication, election of a DTV station's post-transition channel and whether or not the FCC should adopt a City Grade service requirement.

Specifically, the FCC sought comment whether the Commission should require each DTV facility to match its Grade B service area of its companion NTSC facility in accordance with OET Bulletin 69. The FCC indicated in the NPRM that service replication was a principle on which the DTV Table of Allotments was based. The FCC further indicated that without a City Grade requirement, it feared that the replication concept would not be maintained.

It is that concept that Delta College used in its planning of the WDCP-DT request. The planning for this proposed operation occurred over a year prior to the adoption January 18, 2001 of the Report and Order. Delta College sought as a first step to ascertain where (1) the FAA would

²WDCQ(TV) is licensed to University Center, Michigan. It operates from another site on NTSC Channel 19 with 1290 kW and an HAAT of 140 meters.

³Fifth Report and Order at 12856.

⁴Notice of Proposed Rule Making in MM Docket No. 00-39, 15 FCC Rcd 525 (2000).

permit a tall tower, (2) would be consistent with another television site in the market, and (3) provide the level of service specified in Section 73.625 of the FCC Rules. The goal to be close to another television site is to reduce the prospect of households having to reorient their DTV receive-antennas. The above goals converged to the site specified in its application and submission dated February 2000.

A study of the individual WDCQ(TV) and WDCP(TV) Grade B contour has been performed. The Grade B contour for each station has been determined by utilizing the station parameters listed in the FCC's Consolidated Data Base System ("CDBS") and the methodology outlined in Section 73.683 of the FCC Rules.

A further determination has been made of the predicted 41 dBu contour authorized in the construction permit granted August 14, 2000. The prediction of the principal community contour is based on the value and methodology specified in Section 73.625 of the FCC Rules.

The predicted Grade B contours of WDCQ(TV) and WDCP(TV), and the predicted WDCP-DT (authorized facilities) contours have been placed on a computer-generated map. As can be seen, the use of the single WDCP-DT site authorized by the outstanding construction permit encompasses over 85% in an area⁵ of the combined Grade B service area by WDCQ(TV) and WDCP(TV).

Further based on the 1990 census, the WDCP-DT authorized facility encompasses a population of 1,249,268 persons. The composite predicted Grade B service area composed of

⁵The WDCP-DT authorized facility encompasses an area of 19,722 square km. The composite WDCP(TV)/WDCQ(TV) Grade B service area is 13,689 sq. km. The composite Grade B service area not served is 1,671 sq. km.

WDCP(TV)/WDCQ(TV) encompasses a population of 684,896. The composite WDCP(TV)/WDCQ(TV) service area not served by the WDCP-DT authorized facility by its predicted 41 dBu contour is found to be 3,252 persons. Hence, Delta College has achieved the goal of essentially replicating the combined Grade B service area and population of its current NTSC stations while placing a predicted 41 dBu contour beyond the city limits of Bad Axe.

Therefore, Delta College believes it has met the intent and spirit of the FCC's concerns for DTV service replication while meeting the constraints imposed by the FAA and the receive-antenna orientation question.

